

Lambda Letters Project

32579

Vol. 4, No. 6 June, 1996 6212 Silverton Way, Carmichael, California 95608 LambdaLP@aol.com (916) 965-6851

The Supreme Court Decision: The Dawn of Hope

Lavender Library, Archives and Cultural Exchange Sacramento, CA

Full faith and credit shall be given in each state to the public acts, records, and judicial proceedings of every other state.

—Article 4 of the U.S. Constitution

No state shall . . . deny to any person within its jurisdiction the equal protection of the laws.

—From the 14th amendment to the U.S. Constitution

It has been said that a primary function of the U.S. Constitution, and of our system of justice, is to protect the minority from the tyranny of the majority. In order for that to happen, two things must be present and operating. There must be specific protections written into the Constitution and there must be objective judges willing to enforce those protections regardless of their own prejudices or the prejudices of others.

The recent U.S. Supreme Court decision in the case of Colorado's Amendment 2 demonstrated that, for that case at least, both necessary elements were present and working. Justice

Continued on page 7

Also in This Issue:

Defense of (Straight-Only) Marriage Act 3, 8, 10
Fighting Discrimination Against Women 3, 5
Fighting Discrimination in Exclusive Clubs 4
Glimmer of Hope in State Budget 4, 5
Clinton Signs CARE Act Renewal 5
Clinton's Shocking Antigay Stance 5
Volunteers Desperately Needed 6

Gay Pioneer and Hero Dies

Retired Army Sergeant Perry Watkins died of complications to AIDS in March. Perry Watkins was the first gay man ever to beat the ban on gays in the military. Before joining the Army he went to school in San Diego.

Perry Watkins joined the U.S. Army in the mid 1960s. At the time of his induction, and at all subsequent reenlistments, he informed the Army that he was gay. They enlisted and reenlisted him anyway. In fact, he made being gay a major part of his service, becoming a widely popular drag entertainer in the Army.

In 1981 the Army refused to reenlist him, on the grounds that he was gay. Sergeant Watkins took them to court and, in 1989, the U.S. Circuit Court of Appeals ruled in his favor. Subsequently the U.S. Supreme Court refused to hear the government's appeal of that ruling and so his victory in the Circuit Court of Appeals was sustained. Watkins ultimately settled with the Army. In the settlement he was given an honorable retirement and a financial settlement.

We owe a lot to the pioneers and heroes of the lesbian/gay/bisexual/transgender civil rights movement. Sergeant Perry Watkins is one of those heroes.

Lambda Letters Progress Report

Letters Collected

April, 1996	2,562 letters
In all of 1996	23,415 letters

Dollars Spent

April, 1996	$2,113
In all of 1996	$7,713

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Lambda Letters Project

Statement of Purpose

To promote people of color, feminist, lesbian, gay, bisexual, transgender, and HIV/AIDS status advocacy and to bring people of color, women, lesbians, gays, bisexuals, transgendered persons, and persons affected by or living with HIV/AIDS into full participation in the mainstream of American society now, exercising all the privileges and responsibilities thereof.

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Lesbian/Gay/Bisexual/Transgender Issue

Defense of Marriage Act on the Congressional Fast Track

Companion bills have been introduced in both the House and the Senate that would enable federal and state governments to ignore any same-sex marriage approved in any other state. The so-called "Defense of Marriage Act" (H.R. 3396), introduced in the House by Representatives Bob Barr (R-GA) and Steve Largent (R-OK), and in the Senate (S.B. 1740) by Senator Don Nickles (R-OK), is on the fast track—with Rep. Barr promising that "the bill will reach the House floor very quickly." Indeed, the bill was granted its initial hearing in the House one week after its introduction.

In the Senate, the bill's movement through the legislative process may be accelerated by the recently announced resignation of Bob Dole from the Senate. The most likely candidate to replace Dole as Senate Majority Leader is Trent Lott (R-MS), one of the gay community's most vigorous opponents.

The legislation has its genesis in a movement initiated by religious political supremacists to enact antigay marriage legislation state by state throughout the nation. The movement was sparked by the possibility that the Hawaii State Supreme Court may strike down same-sex prohibitions in that state, even though a final decision in that case may be two years away. As a result of their efforts, bills have been introduced in 34 state legislatures. However, in 17 of those states, such

Continued on page 8

Women's Issue

Fighting Discrimination Against Women

Many groups in the women's community—including the National Organization for Women, the American Association for University Women, and the League of Women Voters—are deeply concerned over the ongoing, serious debate on the overall fairness of affirmative action policies in hiring and school admissions decisions. They argue that the state's affirmative action programs provide the only means for which women can gain equity and fairness in employment and school admissions decisions. This month's letter opposes a bill which seeks to eliminate these policies completely by dismantling the only reasonable and legal means for preventing discrimination.

Authored by Assemblyman Richter (R-Chico), A.B. 2468 would ban preferential treatment on the basis of race, color, or sex in public employment, public education, and public faculty employment. In addition, this bill would ban the admission of persons to a public educational institution through procedures separate from the *publicized admissions process*; persons who violate these procedures would be fined up to $1,000.

State affirmative action programs have been invaluable to women by creating expanded opportunities for women in higher education and employment. With the reformation of our state welfare programs underway, many more women in the near future will be entering the job market and applying to colleges to receive training. These affirmative action programs will ensure that they have a fair chance of being accepted or hired in a system which

Continued on page 5

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People of Color Issue

Fighting Discrimination in Private Clubs

"All persons within the jurisdiction of this state are free and equal, and no matter what their sex, race, color, religion, ancestry, national origin, or disability are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments or every kind whatsoever."

—Unruh Civil Rights Act

This quote clearly expresses the will of the people of California on the matter of discrimination. Although the "Business Establishment" is not defined in the law, it is obviously the intent of the law to prohibit organizations that conduct commerce with the public at large from discriminating against members of the public on the basis of intrinsic personal characteristics.

That is why it is bewildering that members of the California Senate would initiate and bring to a floor vote a bill that, if passed, would have exempted business-operating private clubs and fraternal orders from the provisions of the Unruh Civil Rights Act, provided they qualified for tax-exempt status under certain sections of the federal Internal Revenue Code.

The bill, S.B. 2110, if enacted, would have permitted private clubs—including golf clubs, tennis clubs, fraternal societies, and any other organization that qualifies as a 501(c) nonprofit entity—to refuse membership to women, disabled persons, people of color, and others. Fortunately, the bill was rejected—but barely—on a May 29th floor vote.

However, the bill's authors, Senators Kenneth Maddy (R–Fresno), Quentin Kopp (I–South San Francisco), and Tim Leslie (R–Roseville), have been granted a reconsideration option, and considering the litigious history of the exclusive private clubs that supported the bill, there can be no doubt that this issue will resurface.

It is important that Lambda Letters Project members write to the Senate President pro Tempore William Lockyer (D–Hayward) to express dismay that such an insult to the women and minorities of this state should ever be discussed on the floor of the Senate, and to encourage his continued opposition to the bill.

HIV/AIDS Issue

A Glimmer of Hope in the 1996–97 State Budget

Because California's economic picture is improving, the Governor's proposed budget for 1996–97 actually has some bright spots in it concerning HIV/AIDS issues. However, this does not mean we are out of the woods yet. Conservative Republicans are still a powerful force in the State Legislature, and the Assembly's version of the proposed budget not only contains some very bad language, but it also leaves the door open for cutting some proposed HIV/AIDS funding.

Because of this, this month we are urging three Democratic leaders—Assemblymembers Bill Lockyer (Hayward) and Richard Katz (Panorama City), and Senator Mike Thompson (Santa Rosa)—to push for the Senate's version of the proposed budget. These three individuals will be joining with their Republican counterparts and the Governor to come up with a final version of the budget, which will then be voted on by all members of both houses. In past years it was this long-negotiated budget which was finally accepted by the members of both houses.

The following are some details of what we want to achieve:

First, to eliminate budgetary language which was taken from A.B. 2248 (Baldwin, R–La Mesa). Current California law requires that parents be notified of their children's attendance in HIV/AIDS education courses, but it allows local school boards to make the decision concerning the type of parental consent needed. If passive consent is allowed (the usual, current practice) then children receive this education *unless* their parents specifically request that their children be excused. Under active consent the children will receive this education *only if their parents return a letter requesting it.* Quite obviously, we have major concerns that many parents will simply not bother to respond. Because of this, the legislation (and its language in the budget) has been opposed by HIV/AIDS organizations, the State Department of Education, the California School Boards Association, and the Los Angeles, San Diego, and San Francisco Unified School Districts.

Continued on page 5

President Signs Renewal of Ryan White CARE Act

On May 20th President Clinton signed a law renewing the Ryan White CARE Act for five years. The previous Ryan White CARE Act had terminated on October 1, 1995, and it took eight months to get reauthorizing legislation through Congress.

The Ryan White CARE Act helps pay for home care, transportation, counseling, hospice care and other support for people with AIDS or HIV. More than 300,000 people have received care under the law since it was first enacted six years ago.

The reauthorization provides $106 million more than Congress appropriated last year, a rarity in a year of program shrinkages and trimmed budgets. The law provides $738 million for support services for FY 1996, up from $632 million last year. Clinton has announced that an additional $52 million will be allocated to providing life-saving and life-extending drugs and therapies to HIV patients who cannot afford to pay for them.

Clinton: Antigay for the Moment

Recently two antigay marriage bills were introduced in Congress. Almost immediately, President Clinton expressed his support for the bills and said he would probably sign them if they made it to his desk. Apparently it has long been known that Mr. Clinton opposes gay marriages, but this may be the first time he has spoken so publicly on the subject.

Some say that he spoke out to prevent Senator Dole for attacking, him for supporting gay rights. Apparently, Clinton feels that such an attack might drive mainstream voters away from him during the next presidential election. The unstated message here is that Clinton thinks gays and lesbians will vote for him under almost any circumstances. Thus, he can afford to ignore their needs, or even oppose their best interests, in order to protect his popularity among mainstream voters.

Discrimination Against Women

Continued from page 3

still promotes men over women, and pays them more.

While we can all agree that our current policies may need some modification, dismantling them entirely is an extreme response to a situation that may hurt a few, but unquestionably *helps many* in this state. A.B. 2468 would have a devastating effect on women, since it offers absolutely nothing to prevent women from experiencing the ongoing and pervasive practice of sexism.

A.B. 2468 passed the Committees on the Judiciary (9–4) and Appropriations (12–8) and is now headed for an Assembly floor vote, which we expect to occur before our letters arrive. Our letters are directed to the Senate Committee on the Judiciary, where we expect A.B. 2468 to go when it reaches the Senate. Please sign this month's letter which opposes the extreme response of completely eliminating a program that has helped so many women in this state. What we need instead is a more moderate and rational proposal which will modify our current affirmative action policies—while continuing to protect women from the very real problem of discrimination.

State Budget: Glimmer of Hope

Continued from page 4

Second, to support additional needed funds for the AIDS Drug Assistance Program (ADAP). These funds will cover the costs of a new class of HIV protease inhibitors, for which ADAP now pays, and two new staff members to work on ADAP reform. (Even Gov. Wilson has included these funds in his proposed budget.)

Finally, existing AIDS prevention and education programs should be fully funded. For this to occur, a proposal to shift $1.4 million from Ryan White Title II local consortia to other activities should be defeated. Local consortia are citizen-based groups which make funding allocations for outpatient medical care, hospice care, case management, and dental, mental health, and nutritional services, among other things. Any reduction in their funding in the light of increasing HIV/AIDS caseloads will, obviously, place further strain on volunteer and community resources, as well as possibly increasing state costs in other patient service areas.

Lesbian/Gay/Bisexual/ Transgender Analyst Needed

We need a volunteer to help us prepare our monthly articles and sample letters on lesbian/gay/bisexual/transgender issues. This volunteer should have good writing skills. He or she will spend about 10 hours a month researching possible subjects and composing sample letters and articles for our newsletter. The volunteer would also attend a monthly, two- to three-hour staff meeting in which each month's subjects are chosen and other important business of the Project is accomplished. Staff meetings are held on weekends and rotate between locations in the Sacramento and Oakland areas.

The Project can provide leads on how to find suitable subjects and advice on writing if needed. This is a great opportunity for you to influence the subjects we cover. Please consider volunteering for this important position, or help us find the person to do it. A travel allowance can be provided to cover the cost of travelling to and from staff meetings.

If you're interested, please send us a note with your letters or call Boyce Hinman at (916) 965-6851. If you have e-mail, you can send a message to LambdaLP@aol.com.

Letter Stuffers Needed

Volunteers from the Sacramento area are needed to help prepare our letters and newsletters for mailing each month. This work is usually done from 7–9 PM on the first Thursday of the month. The work is done at the offices of SACWN in downtown Sacramento. Refreshments and a door prize are provided each month. If you can help, please enclose a note with your letters or call Boyce Hinman at (916) 965-6851



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Dawn of Hope

Continued from page 1

Kennedy, writing for himself and five other judges, ruled that Amendment 2 violates the 14th amendment to the U.S. Constitution, which guarantees equal protection of the laws to all U.S. citizens. His decision said, "A law declaring that in general it shall be more difficult for one group of citizens than for all others to seek aid from the government is in itself a denial of equal protection of the laws. We must conclude that Amendment 2 classifies homosexuals not to further a proper legislative end but to make them unequal to everyone else. This Colorado cannot do."

The outcome of this case was particularly surprising because most of the Supreme Court justices were appointed by Presidents Reagan or Bush. The justices who overturned Amendment 2, and the presidents who appointed them, are: Stephen Breyer (Clinton), Ruth Bader Ginsberg (Clinton), Anthony Kennedy (Reagan), Sandra Day O'Conner (Reagan), David Souter (Bush), and John Stevens (Ford). Those voting to uphold Amendment 2 were William Rehnquist (Nixon), Antonin Scalia (Reagan), and Clarence Thomas (Bush).

Assuming a majority of the justices continue to base their decisions on the facts, not prejudices, there is hope that we will have at least a partial victory on the marriage issue. Article 4 of the U.S. Constitution says that each state must give full faith and credit to the public acts and judicial proceedings of every other state. The issuance of a marriage license by a local government is a public act covered by Article 4. That is one of the reasons why states now recognize marriages legally performed in any other state. So it would seem that gay or lesbian marriages performed legally in Hawaii would have to be recognized in all the other states.

Legislators in many states, including California, have been attempting to pass state laws banning the recognition of gay marriages performed legally in other states. But Article 4 would make such laws invalid. Some in Congress are trying to pass a federal law allowing states to refuse recognition of gay marriages performed legally in other

Continued on page 10

Transgender Conference Announced

The International Conference on Transgender Law and Employment Policy, Inc. (ICTLEP) has announce that it will hold a conference at the Ramada-Astrodome Hotel in Houston, Texas, from July 3–7. The conference is for transgendered persons and their supporters. The Conference will include workshops on:

- Legal and rights work being done in countries other than the U.S.
- Legal and rights interests of transgender persons other than transsexuals, including heterosexual crossdressers and gay drag queens
- Expanded coverage of legal and rights issues of transgendered men, female-to-male crossdressers, and masculine-appearing women
- Legal and rights interests of transgendered people of color

For more information on the event, or to register, contact Dee McKellar at (713) 777-8452, or send e-mail to deemckellr@aol.com.

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Defense of Marriage Act

Continued from page 3

legislation has either been withdrawn or defeated. The religious supremacists' efforts are now concentrating on national legislation to fulfill their agenda.

Hopes that President Clinton would side with the gay community by vetoing the bill should it reach his desk have diminished in recent days due to an announcement from the White House that the President would act "consistently with his personally stated view" that legal recognition of same-sex marriage is "wrong."

However, there is a light at the end of the tunnel and the odds are only 50–50 that it's an oncoming train. In an article published this week in the *New York Times,* it was noted that "there is a good chance the bill will never pass."

> *The freedom to differ as to things that do not matter much is a mere shadow of freedom. The real test of its substance is the freedom to differ as to the things that touch the heart of the existing order.*
>
> —Justice Harry A. Blackmun, dissenting opinion in *Bowers v. Hardwick*

Here's how you have an opportunity to make a difference. Write your representative in the House and urge her or him to strongly oppose this legislation. As Rep. Pat Schroeder stated at the House hearing on same-sex marriage, we need to tell our representatives that "we don't need Congress to federalize and define marriage." *In order for your letter to have the most impact, we strongly advise you to take the time to compose your own personal letter (preferably handwritten) to send to your representative.* A handwritten letter has a greater impact on legislators than form letters do. Simply return your letter to us and we will make sure it gets to your representative. However, if you do not have the time, a sample letter is included that you may sign and return to us. A form letter is better than no letter at all!

The following helpful points to raise when communicating on the subject of same-sex marriage come from the Human Rights Campaign:

Gay, lesbian, bisexual, and transgendered Americans are not protected from discrimination. When discussing the controversial issue of gay marriage, it is important first to educate people about the fact that gay and lesbian people living in America today are not protected from discrimination and are denied the most basic rights under law. Today in America, you can be fired from your job simply for being gay, lesbian, bisexual, or transgendered. No federal law protects people from discrimination on the basis of sexual orientation.

Most Americans believe this kind of discrimination is wrong. A fundamental American value holds that every person should have an equal opportunity to a good job, a decent home, and a loving family. Currently, non-straight people are denied the opportunity to share in the rights and responsibilities of marriage in all 50 states.

Framing the issue—marriage is a matter of human rights and personal decisions. Making a commitment to a lifelong relationship is a fundamental human need that should not be denied to anyone. Marriage is a basic human right. Adults should be free to make a commitment to the person with whom they wish to spend their life. The government should not interfere in these personal matters.

Telling personal stories—unfairness hurts real people and their families. Sharon Kowalski and Karen Thompson shared a home in Minnesota and exchanged rings to show their commitment to each other. However, their relationship was not legally recognized. When Sharon was seriously injured in a car accident, the hospital refused to allow Karen to visit her. Karen was not informed as to Sharon's condition (even as to whether she was dead or alive). Karen spent over nine years and over $300,000 fighting a court battle to win the right to visit, care for, and finally bring home the person she loved.

In Hawaii, two gay men had been in a committed relationship for 20 years. One Friday night, one of the men had a stroke and was taken to the hospital. When his partner arrived, the hospital refused to let them see each other—even though the couple had a legal document stating their wish to make medical decisions for each other. When the man who was denied visitation finally got to speak to the hospital lawyers days later, they said, "You can pick up his body at the city morgue." His partner had died three days earlier.

Rights that straight people take for granted—such as the ability to visit a sick or injured spouse in

Continued on page 10

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Defense of Marriage Act

Continued from page 8

the hospital—are denied to non-straight couples. Because their committed relationships are not recognized by law, hospitals and other institutions do not have to respect the basic human rights of these couples.

Understanding the politics of gay marriage. Because the state of Hawaii is considered unlikely to make a "compelling" case against gay marriage (the test that the state's Supreme Court has established to uphold such laws), most legal observers expect the Court to approve gay marriages in 1997. Extremists, bent on singling out gay, lesbian, bisexual, and transgendered Americans for discrimination, are using the case to promote their antigay politics.

Curiously, bisexuals have received some unexpected limelight during recent Congressional hearings. Arguments were raised which stated that gay marriages should be stopped because bisexuals "need" to date a man and woman at the same time—leading to the inevitable legalization of group marriage! (Needless to say, this argument is a smoke screen: non-monogamy is by no means a requisite of bisexuals, nor is its practice restricted to them.)

These extremists are using many of the same arguments used not long ago to deny this basic human right to people of different races. The same language used by opponents of gay marriages today was used to oppose interracial marriages. Just two decades ago, there were laws which stated that "all marriages between a white person and a colored person shall be absolutely void."

Similar to the public opinion polling on equal marriage rights for same-sex couples, the idea of interracial marriage was very controversial. In 1968, one year after the Supreme Court decision striking down laws prohibiting interracial marriage, 70 percent of the public "disapproved" of interracial marriage. Even as late as 1983, some polls showed that only 40 percent "approved" of interracial marriage.

Dawn of Hope

Continued from page 7

states. However, Congress cannot pass laws that violate the U.S. Constitution or its amendments.

Please note all this depends upon right decisions by impartial judges when these laws are contested in court. They might not be impartial, so we must fight enactment of the anti-marriage laws anyway.

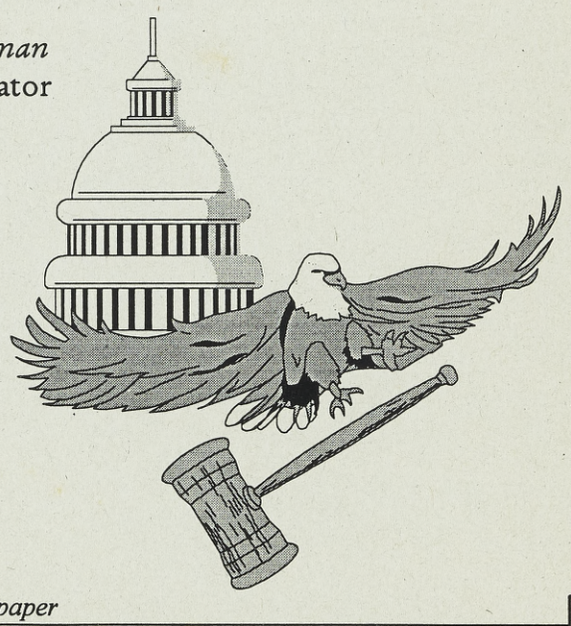
To permit states to refuse recognition to gay marriages performed in other states, Congress would have to amend the U.S. Constitution. That would require a two-thirds vote in both houses of Congress and approval from two-thirds of the states. That is not an easy task.

However, our opponents in Congress are also attempting to create a federal definition of marriage as a "legal union between one man and one woman." Presumably this would prohibit gay married couples from filing joint tax returns. It could also prohibit surviving gay spouses from collecting federal benefits such as survivor's Social Security benefits upon the death of their spouse. It does not appear that this would be in conflict with the full faith and credit clause of the U.S. Constitution, which may only affect the actions of states. So it might survive judicial review in the courts.

Assuming the Hawaiian Supreme Court does rule in favor of gay marriages, it appears there might be real hope of gaining state recognition of gay marriages nationwide. It all depends upon judges basing their decisions on the facts, not prejudices.

We shall overcome!

Boyce Hinman
Administrator



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Crane & Co., Photography Sacramento, CA (916) 455-1587	Lioness Books 2224 J Street Sacramento, CA 95816 (916)442-4657	Uniglobe Travel 2100 Arden Way, Suite 220 Sacramento, CA 95825 (916) 920-1701
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